

MINUTES

WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Conference Meeting Room
Second Floor, Court House
Boonville, Indiana
March 28, 2007 at 6:00 P.M.

MEMBERS PRESENT: Larry Willis, Chairman of the Board; Eric Stahl, Don Mottley, Terry Dayvolt, and Richard Medcalf.

Also present were: Sherri Rector, Executive Director and Secretary; Morrie Doll, Attorney; Jaynann Hebner, staff and Christy Powell, staff.

MEMBERS ABSENT: William McCune and Steve Gibson

MINUTES:

Mr. Willis called the meeting to order and asked if everyone has had a chance to review the minutes from the regular meeting held February 28, 2007. He asked if there were any corrections or additions. There being none he entertained a motion.

Terry Dayvolt made a motion to accept the minutes from the February 28, 2007 meeting.

Don Mottley seconded and the motion unanimously carried.

The Chairman explained the rules of procedure.

VARIANCES:

BZA-V-07-04 – Applicant: Alvey's Sign by John Devries, Account Executive. Owners: Peoples Trust & Savings Bank by Victor Bowden, Security Officer.

Premises – Property located on the E side of SR 261 approximately 0' N of the intersection formed by SR 261 and Oak Grove Rd. (S 300) Ohio Twp. Lot 1 Paradise Park Sub. 7199 Parker Dr.

Nature of Case – Applicant requests a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance and the Subdivision Control Ordinance in effect for Warrick County, Indiana, to allow an Improvement Location Permit to be issued for a message board to encroach in a 25' building setback line and a 12' Ameritech easement in a "C-1" Neighborhood Commercial Zoning District. Advertised in the Boonville Standard on February 15, 2007. Continued from February 28th meeting.

John Devries approached the podium.

Mrs. Rector stated that she wants to report that they do not have all their return receipts back from the adjacent property owners and in reviewing when they were sent out, it was only nine days before the meeting and not the required ten therefore it needs to be continued one more month. She stated new notice needs to be sent out. She stated the staff did give it to them on March 6th but they didn't send it out until the 19th. She stated this will have to be continued again. She stated to Mr. Devries that he needs to make sure that it's sent out as soon as the staff gives him the notice.

Mr. Devries stated that new letters will be sent out tomorrow.

Mr. Willis stated, to reinforce what the Executive Director has said, it is very important that he get it right because there could be people at the meeting that are wasting their evening for or against this petition and it is not fair to them. He stated for his company to make sure they get it all together next time because he would hate to see that People's Bank would have to take their sign down. That being said he entertained a motion.

Don Mottley made a motion to continue BZA-V-07-04.

Richard Medcalf seconded and the motion carried.

Mrs. Rector stated she wants to bring it to Mr. Devries attention that part of the other rules of procedure is that the owner of the property has to be at a meeting or represented by an attorney or he would have to

have a recorded power of attorney to represent the owner at the meeting. She stated to make sure that is done.

Mr. Devries stated he would make sure Victor Bowden is present.

BZA-V-07-07 – Applicant & Owner: Charles L. Dillehay

Premises – Property located on the N side of SR 261 approximately .2 miles SW of the intersection formed by SR 261 and Baker Rd. (W 400), Boon Twp., 503 SR 261. (Complete legal on file.)

Nature of Case – Applicant requests a Variance, from the district requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, Indiana, to allow an Improvement Location Permit to be issued for a Single Family Dwelling on property with an existing residence to be removed in an “A” Agriculture Zoning District. Advertised in the Boonville Standard on March 15, 2007.

Charles Dillehay approached the podium and stated his address as 503 SR 261.

Mr. Willis requested a staff report.

Mrs. Rector stated they have all the return receipts from certified mail to the adjacent property owners. She stated the applicant is requesting a variance to allow a single family dwelling on property with an existing residence to be removed. She continued that the applicant states on the application it would be a financial hardship to find or rent another residence when the modular home is being placed and the foundation is constructed. She stated the property is approximately 3 acres zoned “A” agriculture with the surrounding properties being zoned the same. She stated there are residences to the east, west and south and Quail Crossing Golf Course to the north. She stated there is no flood plain on the property. She stated in the past in these same situations the Board has given a certain amount of days to remove the other home upon occupancy. She stated there is a letter (copy on file) that is in the Board’s packets from adjacent property owner Keith Miller and Pamela Miller in favor of the variance and them upgrading the piece of property by putting a new residence on it. She stated she can read the letter if they wish. She stated they had an original plot plan they mailed out with the notices and then they amended their plot plan on March 14th and resent notice to the adjacent property owners and there are green cards for both plot plans they sent out so the application is in order.

Mr. Willis asked the petitioner if he had anything to add to the staff report.

Mr. Dillehay stated no.

Mr. Willis asked for any questions by Board Members.

Mr. Willis asked Mr. Dillehay if he planned on living in the existing structure until his new home is completed, and then move into the new home and remove the existing home.

Mr. Dillehay stated that is correct depending on the time frame set by the Board.

Mr. Willis stated that was his next question. He asked Mr. Dillehay once he gets moved in, how much time he needs to set up housekeeping and get established in his new residence.

Mr. Dillehay stated getting into the new home will only take a couple of weeks but the demolition of the old house he has no idea, he has never dealt with this situation so he hasn’t gotten any bids yet back from the companies as far as time frame that they’re going to be able to tell him. He stated he would like to request 6 months.

Mr. Willis asked for any questions by Board Members.

Terry Dayvolt asked if this is approved when he is planning to start construction.

Mr. Dillehay stated if everything goes well and he can get his permits on Friday he will be at the Manufactured Home place on Saturday and they might even start early next week depending on the weather, its all a matter of how much rain we’ve had before they can get in and start the new septic system and get the foundation done.

Mrs. Rector asked if he’s planning on getting a manufactured home that is already built.

Mr. Dillehay stated yes, that is correct. He stated it is two sections, almost 1800 square feet.

Mr. Willis stated on the staff report it said modular home so he assumed it was.

Mr. Medcalf asked if he is using the existing septic.

Mr. Dillehay stated they are getting a whole new system.

Mr. Dayvolt asked why he would need six months to tear down the other house.

Mr. Dillehay stated purely for financial reasons right now.

Mr. Willis asked if he could get by with 90 days from the completion of the new residence to have the old residence removed.

Mr. Dillehay stated all he can do is try. He stated if the Board sets forth a time frame that it has to be down he will make sure it happens by that date. He stated he's not going to jeopardize his new residence by having that old house in the way. He stated if it needs to come down he'll get it down.

Mr. Doll stated there is a provision in the code that he thinks the Board needs to be aware of when they pass the resolution one way or another, Article 26 Section 2 requires that the variance can only be granted when there's peculiar circumstances as to shape or size of the parcel involved, and perhaps sometimes the location is such that the literal application of the provisions of the Article would impair the owner's rights to some reasonable use of the property. He stated the variance shall not be granted unless, in the first place, there are such peculiar circumstances. He stated if a motion be made to allow it, should that be the wish of the Board, he thinks you have to tie it to the shape, size or location of this particular parcel to approve this requested variance otherwise it doesn't meet the requirements.

Mrs. Rector stated she doesn't know if this would fit in there or not but they would not be able to divide the parcel to have two residences because it is on a septic system and they need 2.5 acres per parcel so that's why they could not divide the land.

Mr. Doll stated that is a good example, the indivisibility of the parcel.

Mr. Willis stated that is what the Board has done in the past on similar situations and thanked Mr. Doll for pointing that out. He asked for any other questions by Board Members. There being none he asked for any remonstrators here for or against this petition. There being none he entertained a motion.

Terry Dayvolt made a motion that findings of facts be made as follows:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community.
2. The use or value of the area adjacent to the property included in the Variance will not be adversely affected.
3. The need for the Variance arises from some condition peculiar to the property and does not exist in similar property in the same zone being the indivisibility of the property for purposes of septic permit on this property
4. The strict application of the terms of the ordinance will constitute unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. A residence already exists on the property and it would be a financial hardship to find other accommodations prior to the location of the new manufactured home and could not meet code to subdivide.

and the application be approved in accordance to the application and plot plan on file subject to the following conditions.

1. Subject to any required State or Local permits.
2. Subject to the property being in compliance at all times with the applicable zoning ordinance of Warrick County.
3. Subject to all public utility easements and facilities in place.
4. Subject to an Improvement Location Permit being obtained.

5. Subject to applicant obtaining a demolition permit and the Warrick County Building Inspector verifying the existing house has been raised.
6. Subject to existing home being removed 90 days after the certificate of occupancy is issued for the proposed residence.
7. Subject to any required Building Permit from the Building Department.

Larry Willis seconded and the motion unanimously carried.

Mrs. Rector stated Mr. Dillehay can pick up his approval on Friday. She stated to obtain his Improvement Location Permit he will need his septic permit and water tap.

Mr. Dillehay stated he already has that. He stated his only question is the Board said 90 days from the date of the permit. He asked if it was 90 days from his demolition permit.

Mrs. Rector stated she thinks it's from the certificate of occupancy.

Mr. Dayvolt stated it is from the certificate of occupancy of the home. He stated when the building inspector issues an occupancy permit that everything has been concluded on the new home, and then from that point and time you have 90 days.

Mrs. Rector stated all of that information will be on his approval.

BZA-V-07-08 – Applicant & Owner: SM Properties, L.P. by Kathryn Schymik, Attorney

Premises – Property located on the S side of Bell Oaks Dr. approximately 0' E of the intersection formed by Bell Oaks Dr and Bell Rd. (W 850), Lots 6 & 7 in Bell Oaks Replat, Ohio Twp., 8477 Bell Oaks Dr. (Complete legal on file.)

Nature of Case – Applicant requests a Variance from the district requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, Indiana, to allow an Improvement Location Permit to be issued for the construction of a 63,600 sq ft supermarket located on the eastern end of the retail shops of Bell Oaks Center, not meeting the minimum required parking spaces in a "C-4" General Commercial Zoning District. Advertised in the Boonville Standard on March 15, 2007.

Dave Fontana approached the podium and stated that he is the director of real estate development for Schnucks markets and representing the owners. He stated Kathryn Schymik is also present and she is their attorney.

Mr. Willis asked the Executive Director for a staff report.

Mrs. Rector stated that they do have all the return receipts from certified mail for the adjacent property owners. She stated the applicant is requesting a variance to allow the construction of a 63,600 square foot supermarket located on the eastern end of the retail shops of Bell Oaks center that is not meeting the minimum required parking spaces. She stated the property is lot 6 & 7 in the replat of the replat of Bell Oaks Subdivision and is approximately 15.68 acres zoned "C-4" General Commercial. She stated the property to the west, north and east is zoned the same with businesses and the property to the South is zoned R-2B Multi family apartment district with apartments. She stated the applicant seeks to reduce the number of required parking spaces under the required Warrick County zoning ordinance from 621 to 475. She stated the applicant states on the application that the number of parking spaces proposed by the owner is proportionally similar to the other Schnucks retail centers located in Vanderburgh county and other locations throughout the Midwest. She stated there is no flood plain on the property and the plot plan in the Board Member's packets shows where they want to build the new addition. She stated the Board can see in the packet where there's statement of future development. She stated all of this will be re-platted and subdivided; there will be drainage and primary plats so that's not what's before you tonight. She stated that will come back before the Planning Commission. She stated the application is in order.

Mr. Willis asked if the petitioner had anything to add to the staff report.

Mr. Fontana stated in the packet there is an aerial photo that has the layout of the shopping center, the proposed redevelopment over the aerial and he will speak to that. He stated they've owned this shopping center for ten years. He stated they bought it as is. He stated the gentleman is in the supermarket business also developed the shopping center and Schnucks purchased it from him in order to operate the supermarket. He stated they operate 5 supermarkets in the Evansville greater area, Vanderburgh and

Warrick County and they have 101 stores throughout the Midwest. He stated they also develop a lot of shopping centers themselves with the supermarket in them. He stated the store is of an age where it's at the point where they feel they need to improve the store and present a better presentation to the folks that are in their trade area around Newburgh. He stated after they looked at them they decided the best way to do that was to build a new store rather than trying to expand the existing one. He stated they're proposing to tear down a certain amount of retail space on the east end of the shopping center and build a new supermarket on the east end while the existing supermarket stays in business. He stated the idea would be to open the new store and demolish the old one. He stated the tenants that are in the portion of the shopping center that will need to be demolished will be moved into the remaining space that is marked retail 31,200 on the aerial. He stated that is the space that remains and all the tenants that are in the shopping center now will be accommodated within that retail space. He stated under the leases they hold they have the right to move those people. He stated currently they have 97,675 square feet of building on the site. He stated they end up with 94,880 square feet but because of the requirement of the supermarket they have to add 126 parking spaces to meet the 10 parking spaces per 1000 square feet requirement for the supermarket. He stated they are basically going from the existing store is about 44,000 square feet and they're going to a little bit over 63,000 square feet which is like the store they built at Green River and Winch Roads in Vanderburgh County. He stated what happens then on the portion of the shopping center where the current supermarket sits and will be torn down, the detention on this site is not what you would require under the current regulations. He stated it was designed so that the parking lot actually serves as an area where the water is supposed to back up. He stated it doesn't function that way, it has always operated. He stated part of what they are doing will be to bring it up to current standards in terms of detention. He stated the way that the water flow works is that the detention areas will be over near Bell Road so part of that area will go to detention and as for the rest of it they intend to do additional development. He stated in terms of the parking requirements they are asking for the requirement to be reduced to 475 which works out to 5 parking spaces for 1000 square feet in terms of total shopping center, the supermarket and the 31,000 square feet of retail. He stated in their experience that works very well because the supermarket probably gets more than the 5 per 1000 square feet – probably 5 and a half or so when it's very busy but the rest of the retail usually does not require that amount of parking in fact Warrick County code only requires 2 per 1000 square feet for the rest of the retail space. He stated their experience is a way to peg that amount of parking that will work for them is the 5 per 1000 square feet as is referenced in the comments in their petition. He stated Vanderburgh County has 5 per 1000 square feet for shopping centers as does the city of Newburgh and that is what they see in a lot of their developments. He stated really they're looking at a full redevelopment of the shopping center and asking that are able to get the parking more inline with what they normally would be looking at. He stated they will have to put the detention in an area so they will not have the full use of the area where they are tearing down the supermarket. He stated also from an economic stand point, they need to have the additional development. He stated it doesn't pencil out when you tear down a bunch of buildings and have to put in parking that they really don't feel will be needed for the use of the shopping center. He stated the owners are the Schnuck family who also own the supermarket chain and he is representing them and is also the developer. He stated they place their customer's convenience at the top of the list so if they felt that they weren't providing adequate parking they would certainly make sure that they were. He stated from that standpoint they think the plan works very well. He stated it is consistent with other supermarkets. He stated the Buehlers at SR 66 and SR 261 which is just down the road from that location, in 2003 they received a similar variance, they requested and received a reduction of about 24% of the parking that was required under the code and that is basically consistent with what they are asking for. He stated the reason for their request was so they could add the fuel center on their lot so they were able to add more development on the lot. He stated that's what they are attempting to do. He stated they think it will be a very positive development for the county and for the city. He stated in terms of investment, when you look at the supermarket and putting the fixtures and equipment in the supermarket and all that, you're probably looking at about 10 million dollars worth of investment at the end of the day. He stated it's not necessarily to the parking but he wanted to give the Board a flavor for what they're attempting to do at that location. He stated he would be happy to answer any questions the Board might have.

Mr. Willis asked for any questions by the Board. He stated he had one question of importance. He stated some of their competitors in the grocery business use a portion of their parking lot for outside sales such as in the spring and in the fall.

Mr. Fontana stated that Schnucks build their stores so they've got a fairly deep sidewalk out front and for example around this time of year they may have some plants and other things and sometimes in the fall they have pumpkins or mums but they don't get out into the parking. He stated they are able to put them on the sidewalk and still have enough room to get by with their shopping cart.

Mr. Willis asked for any questions by the Board.

Mr. Medcalf asked if Schnucks owned land east of this development. He stated he just wants to know if he's utilizing all the property they own to the east.

Mr. Fontana stated they do not own the land that Mr. Medcalf is asking about. He stated the dotted line is the property line of what they own.

Mr. Willis asked if there were any more questions by Board Members. There being none, he asked if there were any remonstrators here for or against this petition.

Harold Martin approached the podium and stated that he lives in Wyntree Villas Condominiums and he's representing the homeowner's association. He stated his first question was if he could tell who signed for the receipt of the notice to them.

Mrs. Rector asked if there was any property between Wyntree Villas and Schnucks.

Mr. Martin stated that they are definitely for the expansion of Schnucks grocery store. He stated it would really be an added value to their community but he just wanted to inform the Board about the drainage. He stated if the Board looks at the aerial photo on the East side of the shopping center, that large retention pond is water runoff from Showcase Cinema on Bell Oaks hill. He stated his condominium is the bottom one next to the tree line and the pond. He stated he's about 25 feet from that retention pond that runs between Schnucks property and Springview Apartments all the way to Bell Road.

Mrs. Rector stated that Fritz Properties is who developed his subdivision. She stated notice was sent to them.

Mr. Martin stated yes it has been forwarded down. He stated on January 1st, the Homeowner's Association took over the people living there.

Mr. Willis asked if they recorded that so there would be a record at the court house.

Mr. Martin stated yes. He stated he has a copy of the fax to the president of their Homeowner's Association from Fritz properties. He stated he is supporting the store but he wants to make the Board aware of the drainage. He stated he is relieved that they are going to put another retention pond where the existing store is. He stated on five occasions in 2006 that retention pond went over the dam. He stated the 12 inch outlet can not handle the 24-30" pipe coming in from the parking lot and everything else that they've done to it.

Mr. Willis stated he's talking about the retention pond on the east property off of their property.

Mrs. Rector stated in the Commercial Site Review that they have had with them, it was determined before they can build their store they will have to submit drainage plans that are approved by the County Drainage Board.

Mr. Martin stated he just wasn't at that meeting.

Mrs. Rector stated he wants him to know that even if they don't subdivide it any further and just add on, they still have to put in retention or detention, whichever, and have approved drainage plans.

Mr. Fontana stated he would like to clarify that what the gentleman is referring to is the creek running behind the shopping center.

Mrs. Rector stated she thinks that's a legal drain.

Mr. Martin stated it goes in under Bell Road, a gigantic storm sewer system that works fine, there is no problem. He stated he just wanted to let the Board know that adding that retention pond is very important when they take away some of the parking. He stated as he understands it they are adding additional parking out behind the Mexican restaurant so that would be additional runoff that mother nature hasn't taken care of recently and again it will go to that ditch between those apartments and Schnucks and he just wanted to let the Board know that Wyntree Villas is okay with the expansion.

Mr. Willis asked for any further remonstrators.

Mike Clayton approached the podium and stated he just wants some information regarding this. He stated he and his brother are the property owners of where the Clayton Cleaners Building is. He stated as far as wanting Schnucks to go in he thinks it is a positive change. He stated they're not in any way trying to

stop them. He stated that the Board had made mention earlier of the Planning Commission meeting where there was information about the streets and right of ways and the way they were changing the lot or something to that effect.

Mrs. Rector stated where they may have future development and have other lots on there.

Mr. Clayton stated the only concern he has is they have a hard time getting in and out on Bell Road as it is and pulling all that traffic down to that end if it doesn't continue to head to Bell Road like it does now, it's going to be a major congestion point along there and he was talking to Mr. Martin before the meeting started and he was saying there are certain times of the day he wouldn't come in on Clayton Drive because he couldn't get across there since SR 66 was widened it's just created a lot more traffic. He stated it's not anything he's fighting Schnucks on, they both want the same thing, good customer access and he doesn't want traffic jams and they don't want traffic jams. He stated he didn't know if anything was being looked at as far as Bell Oaks Drive was concerned. He stated as that gets developed there really needs to be a center turn lane in there at some point where cars can pull out and get at least half way. He stated what's going to happen along that strip with the traffic pulling to that end is his only concern.

Mr. Willis asked for any other remonstrators for or against this petition.

Mr. Doll asked the representatives of Schnucks to explain to the Board a little more about the future development areas on the plat. He stated he knows there will be some detention structures built. He stated the question he is thinking about is the future development entails structures being built that would be retail on either of these two parcels.

Mr. Fontana stated they don't know the use at this point.

Mr. Doll stated he understands. He asked if in the future they come back with a proposal to build a retail structure there that will require certain parking conditions to be met, would Schnucks pledge that it would be self contained.

Mr. Fontana stated yes, definitely.

Mr. Doll stated so that the future development wouldn't piggyback upon the spaces in front of the 3100 square foot area or the new Schnucks to get its calculations correct.

Mr. Fontana stated that Schnucks has the same concerns when they're a tenant, they don't want somebody else's folks encroaching where they're customers need to be. He stated yes, their intent would be that they would be self-contained.

Mr. Willis asked Mr. Fontana if he would like to address the remonstrators.

Mr. Fontana stated yes, just briefly, their engineers, BLA, have had fairly extensive discussion already with the County Surveyor about the detention and they are putting together their plans now and they think what they will be doing will be an improvement to the existing conditions. He stated they'll be putting more water in those ponds that they're going to be putting in that now runs into the creek. He stated they know about the situation there. He stated he thinks at the end of the day it will be an improvement. He stated he'll be happy to talk to their co-tenant and find out about the traffic issues and see. He stated he thinks what will probably happen, they're moving down to the other end of the shopping center with the supermarket so the traffic pattern shifts so the folks that come from the east now that maybe come all the way down to Bell Road, they may be coming in at different points because they will be coming to the supermarket and will shift around. He stated they're doing this with the intent of increasing their business or it wouldn't make sense however, their experience when they replace a store like this, their customer count doesn't increase but the amount of goods they purchase is increased because the square footage is increased. He stated in other words rather than adding more customers, the customers buy more because they have more to sell. He stated their sales increase, not the amount of customers. He stated while they expect to have more customers and more traffic it won't be directly related to the additional one third square footage, the customer count shouldn't increase like that.

Mr. Willis stated he's got a concern with the traffic on Bell Oaks Drive trying to get out onto Bell Road either to make a left turn to go south or to make a right turn and get over into a turn lane as close as Bell Road is to the widened highway does create some problems and he knows this is not an issue tonight but in the future it could be an issue and he was wondering if they come back if Schnucks could look at it with the traffic engineer, maybe putting another outlet closer to where your new retail is going to go or

where your retention pond is going to be or something where people can get out without going all the way down to Bell Oaks Drive. He stated it's a concern of his where they have the traffic flow.

Mrs. Rector stated in the plat they show the new part and here is a county road that goes onto Bell Oaks Drive.

Mr. Willis stated to go south on Bell Road, people have problems and then down on the frontage road in front of the store there are speed bumps.

Mr. Fontana asked if that's a requirement of the county.

Mrs. Rector stated that Robert Howard, the County Engineer that Schnucks met with is the one who looks at this and sees if any improvements are needed to these roads.

Mr. Fontana asked if they could take the speed bumps out.

Mrs. Rector stated that is their private property that is not a road.

Mr. Fontana stated he didn't know that. He stated in some communities they are mandated to do certain things.

Mrs. Rector stated she doesn't think you can turn left on Bell Oaks Drive, there's a median there.

Mr. Williams stated they're not supposed to. He stated he talked to a State Trooper and that's why the state put those double yellow lines there, they're not supposed to cross over that and people come straight across from the bank and people do it. He stated the State Trooper could write tickets if they wanted because it is restricted.

Mr. Fontana asked what they were talking about.

Mr. Willis stated it's a different issue.

Mr. Medcalf stated he has a question as the Board is addressing Bell Oaks and possibly talking about improvements in the future due to the traffic of the new highway. He stated he thinks it might have an effect because if they do widen that road there goes more of Schnucks parking. He stated if he's looking correctly at this.

Mr. Willis stated he thinks Bell Road has already been widened in that area.

Mrs. Rector stated she doesn't think the County is going to widen Bell Oaks Drive. She stated it's already been built as a commercial road and commercial right of way. She stated they may be able to go in there within the right of way that they have and mark an extra lane. She stated but she doesn't think they need to worry about them going in and taking up parking spaces.

Mr. Medcalf stated that was his concern if they acquired more right of way.

Mr. Willis stated he doesn't think they will have to because they have a fifty foot right of way and a thirty foot road so they have space down through there.

Mr. Doll stated to Mr. Willis that it appears to him too that the new parking that is proposed by Schnucks behind what he calls the Mexican restaurant property, the POB Development, LLC property, is tied to the service road along the back of the commercial development. Mr. Doll stated he thinks that's something different because it doesn't exist that way now.

Mr. Martin stated that yes there is a service road behind Schnucks.

Mr. Doll asked if the service road ties to the customer parking.

Mr. Martin stated yes that is how customers access Rockabar.

Mr. Doll stated the customers that park in the eastern most parking area might choose to go Bell Road down the service road.

Mr. Fontana stated it's possible. He stated they hope they'll go across in front of the supermarket and out across the existing supermarket. He stated the point about the speed bumps he'll look into that because normally Schnucks doesn't like to have them.

Mr. Willis stated there was an emergency over at the Hardee's restaurant and there were two deputy sheriffs down at the Mexican restaurant and one came down in front of Schnucks and the other had to go out to Bell Road to get over there.

Mr. Fontana stated some counties don't want them to do it because of emergency situations and the firemen bounce off them. He stated he'll look into it. He stated and the parking to the east they expect some customers to use but they also expect that new parking to be employee parking.

Mr. Doll asked if it is advantageous to tie it to the service road.

Mr. Fontana stated it really has to be that way with the circulation they have coming from behind, yes he thinks it should be tied to it.

Mr. Doll asked if the circulation he's speaking of would be mostly the delivery trucks.

Mr. Fontana stated yes, mostly the delivery trucks to come in and out and plus emergency vehicles that normally they want to have the 360 degree circulation around the property for all emergency vehicles.

Mr. Doll stated that this parking configuration would bring the delivery trucks down Bell Oaks Drive or perhaps through the parking lot.

Mr. Fontana stated no, they'll leave on Bell Road; they will circulate from the East off of Bell Oaks like they do now.

Mr. Doll stated he was thinking with the current configuration and store location they turn off Bell Road at his witnessing at 7:30 in the morning taking his daughter to school they are pulling in and backing up to the current supermarket close to Bell Road. He stated but this will bring them in down Bell Oaks or across their current parking lot to the east side of the property and he asked if they will circle in behind the new store.

Mr. Fontana stated behind the store then out to Bell Road.

Mr. Doll stated then that this parking configuration will change the truck traffic at that location somewhat. He stated he doesn't know if that's a merit to the Board or not. He stated it does seem to change the traffic.

Mr. Willis stated he thinks Bell Oaks Drive is a county road and then the road that comes along the east parking lot that comes in and goes to the Mexican restaurant is also a county road.

Mr. Doll stated that they would have the right to do that.

Mr. Willis stated yes, and then they would have circulation for them and the other retail customers in either direction around the back side of Schnucks' building.

Mr. Fontana stated yes.

Mr. Willis asked if there were any further questions by the Board. There being none he entertained a motion.

Don Mottley made a motion findings of facts be made as follows:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community.
2. The use or value of the area adjacent to the property included in the Variance will not be adversely affected.
3. The need for the Variance arises from some condition peculiar to the property and does not exist in similar property in the same zone.

4. The strict application of the terms of the ordinance will constitute unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The reduction of parking spaces will not adversely impact the consumer or business.

And the application be approved in accordance to the application and plot plan on file subject to the following conditions.

1. Subject to any required State or Local permits.
2. Subject to the property being in compliance at all times with the applicable zoning ordinance of Warrick County.
3. Subject to all public utility easements and facilities in place.

Eric Stahl seconded and the motion unanimously carried.

Mrs. Rector stated she would have their approval done on Friday.

OTHER BUSINESS:

None

ATTORNEY BUSINESS:

None.

EXECUTIVE DIRECTOR BUSINESS:

None.

There being no other business Larry Willis entertained a motion to adjourn the meeting.

Terry Dayvolt made a motion to adjourn. Larry Willis seconded and the motion unanimously carried.

The meeting adjourned at 6:50 pm.

Larry Willis, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Area Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of said Board at their monthly meeting held March 28, 2007

Sherri Rector, Executive Director & Secretary